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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/727,927  
Filing Date: December 03, 2003  
Appellant(s): REXROAD, JOHN

**MAILED**

DEC 12 2007

**GROUP 3600**

Carey Brandt Anthony  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed September 4<sup>th</sup>, 2007 appealing from the  
Office action mailed November 30<sup>th</sup>, 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Allowed claims - None

Objected claims - None

Cancelled claims - claims 1-11 are have been cancelled

Rejected claims - 12-19

This appeal involves claims 12-19.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,098,750	Reynolds et al.	8-2000
6,138,327	Powell et al.	10-2000

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**Claim Rejections - 35 USC § 103**

Claims 12- 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reynolds (US 6,098,750) in view of Powell (US 6,138,327).

Regarding claims 16-19, Reynolds et al. disclose a net (60) along a support member (20, 30, 40, 50), with a given diameter (figure 5), a plurality of fasteners (95), a safety net (60), being of rectangular shape (figure 1), having a border (perimeter of net body 60), the border being stretched along the support member and fastened to the support member (figure 1). Reynolds et al. fail to specifically disclose a lock or rubberized sleeve about the fasteners.

However, Powell et al. teach a strap (10), having a first end (12) with a lock (22), a rubberized sleeve (18), and a second connecting end (14) that when pulled tight creates a variably constraining diameter, providing the user with an adjustable fastener.

Therefore, it would have been obvious to one of ordinary skill, to connect the net and support member of Reynolds et al. with the straps taught by Powell et al. in order to

offer a fastening strap that locks to a given diameter and provides additional gripping support with a rubberized sleeve.

Regarding claims 12-15, it would be understood by one of ordinary skill in the art that the apparatus made obvious by the above combination would be assembled in the manner described in applicant's claims. Therefore, applicant's claims 12-15 are rejected as being anticipated by the combination of the above mentioned inventions.

#### **(10) Response to Arguments**

Regarding claims 12-19, the applicant argues that there is no motivation to combine the prior art references of Reynolds et al. and Powell et al., that the examiner used the applicant's claims for hindsight in using the strap of Powell et al. for gripping, and that Reynolds et al. "requires" the use of a spring snap link fastener.

Regarding the above arguments, the examiner would like to note that not only do Reynolds et al. teach a variation in fastening means, but Powell et al. recognize that straps of all kinds, intended for use in holding things together, have been known to mankind for centuries. Reynolds et al. teach the idea of fastening a net to a support structure by the use of a fastener. The applicant argues that Reynolds "requires the use of a fastener such as spring snap link". However, this is not a true statement. Although Reynolds et al. mention the fasteners to be "spring snap links", the phrase "*or the like*" following "spring snap links" (col.2, line 38) demonstrates that the net is not limited to being fastened with spring snap links and that other forms of fasteners may be used, so long as the substitute fastener form still connects the net to the support structure, allowing for one of ordinary skill in the art, to select alternative forms of fasteners. And,

as Powell et al. point out, "Straps in one form or another have been utilized by mankind for many centuries, for holding things together and bundling them in a convenient manner" (col.3, lines 11-13). Additionally, the strap, this well known form of a fastener taught by Powell et al., comprises a rubberized sleeve *"to provide flexibility, stretchability, and gripability or engageability"* (col.3, lines 37-38). Therefore, it would be very obvious to one of ordinary skill in the art, when selecting a fastener for holding items together, to select one that provides the above mentioned and promoted (by Powell et al.) characteristics in order to provide a secure connection when fastening the selected items together.

The examiner would also like to note that the "FIG. 1" on page 11 of the applicant's brief, which is intended to represent the "spring snap link" fastener of Reynolds et al, is NOT from the Reynolds patent and no such figure is even present throughout the Reynolds patent. Aside from this fact that FIG 1 may or may not be what Reynolds et al. is suggesting as a fastener, Reynolds et al. still teach that other fasteners may be used, by including the phrase "or the like" when teaching the fastening of the net to the support. Additionally, the applicant argues that this supposed fastener of Reynolds is not design to permanently lock two items together. The examiner would like to note that the applicant is not claiming any items are "permanently" locked together, and that the Powel reference, not the Reynolds reference was used to anticipate the fastener features.

The applicant argues that the fastener disclosed in Powell is for bundling items together. The examiner agrees with this statement, and reminds the applicant that two

items capable of being bundled together can include a net and a pole, such as those net and pole items in the Reynolds reference.

The applicant asserts that the faster of Powell does not allow for bundled items to move relative to each other. First, that is a false statement since the fastener of Powell can be tightened to a variety of different diameters, depending on how tightly the user locks the straps together. A user can certainly tighten the straps together such that the strap forms a diameter larger than that of the bundled items, allowing for movement of the bundled items, if that is what the user desires. Second, the applicant does not claim any items need or need not be movable after being fastened, so whether or not the prior art references allow for more flexibility than the claimed invention is irrelevant.

Therefore, for all of the above reasons, mainly that Reynolds et al. teach flexibility in fasteners used ("spring snap links 95 or the like"), and Powell et al. recognize that straps are an obvious, convenient fastener choice and have been known to mankind for centuries (col. 1, lines 11-13), the combination of references would have been obvious to any one of ordinary skill in the art and would provide a securely connected safety net to surrounding supports.

Regarding claims 12 and 16, the applicant argues that Reynolds et al. do not disclose all the claimed features in the applicant's claims 12 and 16. First the examiner would like to note that Reynolds is not used to anticipate *all* of the features in the applicant's claims 12 and 16. Reynolds is referenced as anticipating *most* of the

features of the applicant's claims, but it is the combination of Reynolds et al. and Powell et al. that together anticipate all of the features of the applicant's claims.

The applicant argues, on page 13 of the filed Appeal Brief, that as shown "in Fig. 1, a spring snap link fastener (95) is made of metal, includes a lever arm that opens using a spring, and has two ends curved ends." First, the examiner would like to once again and point out that Fig. 1 (page 11 of applicant's Appeal Brief) is NOT from the Reynolds patent and nowhere in Reynolds et al. is a fastener shown to resemble what the applicant has inserted as "Fig. 1" and nowhere in Reynolds et al. is there any mention of the fastener being metal, having a link arm or having two curved ends, as the applicant is suggesting. Second, the applicant is arguing that the Reynolds reference does not anticipate the fastener features of the claims. This argument is irrelevant since the Powell reference, *not* the Reynolds reference, was used to anticipate the specific fastener features.

The applicant argues that Powell wouldn't allow for bundled items to move with respect to each other. Aside from the fact that that statement totally depends on what items are being bundled together, it is also false. As explained above, Powell et al. teach a stretchable and flexible (col.3, lines37-38) strap that can be adjusted to different diameters, using both the flexibility of the strap and the various locking locations, allowing for either a tight fit or a slightly looser fit, allowing for the sliding of bundled items, if the user so desires such a fit.

The applicant argues that Reynolds et al. do not disclose a border that surrounds the perimeter of the net. The examiner does not agree with this statement, because as



asserted in the above rejection and best seen in Figure 1, the Reynolds patent discloses a border, the outermost warp and weft members of the net body, which surround the perimeter of the entire net. It is this border that outlines the rectangular shape of the net body and this border to which fasteners are attached for securing the net to a support. This border surrounds the perimeter of the net, because, as pointed out by the applicant, the border is "a part that forms the outer edge of something" and the perimeter is "the outer limits of an area". In the Reynolds patent the outer most warp and weft members form a boarder around the outermost edge, or perimeter, of the net. Therefore, the boarder of Reynolds anticipates the border claimed by the applicant.

The applicant argues that the net of Reynolds et al. is "suspended" rather than "stretched" along the support member. The examiner fails to see these two attachment forms as being very critically different in the immediate case, and asserts that the border of Reynolds is certainly "stretched" along the support member, as can be seen in Figure 1 of Reynolds. Though the net may be suspended from the support, it is also clearly stretched as can be seen from the extended anchoring points along the border where fasteners are used to attach the net to the support. The applicants argument that Reynolds et al. teach suspending the net is only half correct, as the applicant fails to mention that by suspending the net by its border, the net is also stretched along the support, thereby anticipating the applicant's claims.

Regarding claims 13 and 17, the applicant argues that the boarder of the net taught by Reynolds et al. is not rectangular and does not lay flat against the support.

First the examiner would like to note that the applicant claims a "generally rectangular" border and not strictly a rectangular border. Also, the examiner does not agree with the argument that that Reynolds et al. do not teach a generally rectangular border since Reynolds clearly teaches a rectangular border surrounding the net, as can be seen in Figure 1. The net is clearly a rectangle having points stretched along the border where the fasteners anchor the net to the support. Additionally, although Reynolds et al. may not disclose the border laying flat against the support, the use of the strap taught by Powell et al., and certainly the amount of straps used, would allow a user to secure the border tightly against a supporting member which is why the fastener of Powell et al. was used for this feature, and not Reynolds et al.

Regarding claims 14 and 18, the applicant argues that 14 and 18 are allowable because Reynolds does not disclose the all the features of the claims that 14 and 18 depend from. However, as advanced in the above responses to each of the applicant's arguments, the combination of Reynolds et al. and Powell et al. anticipate all of the features of the applicant's claimed invention, including those of claims 14 and 18, rendering the claims *not* allowable. Specifically the Powell patent teaches a rubberized sleeve portion, 18, about the lock fastening straps, providing a gripping and engaging area (col. 3, lines 37-38) for bundling items together.

Regarding claims 15 and 19, the applicant argues that 15 and 19 are allowable because Reynolds does not disclose the all the features of the claims that 15 and 19

depend from. However, as advanced in the above responses to each of the applicant's arguments, the combination of Reynolds et al. and Powell et al. anticipate all of the features of the applicant's claimed invention, including those of claims 15 and 19, rendering the claims *not* allowable. Specifically, the Powell patent teaches a one way latch mechanism (locking tab of 26) as part of the locking mechanism that mates with the other end of the fastener strap.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,



Colleen M. Quinn  
Patent Examiner  
12/4/07



BRIAN E. GLESSNER  
SUPERVISORY PATENT EXAMINER

Conferees:

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